

Delegated Report

Planning Ref: 21/00356/FUL
Applicant: Mr Peter Barker
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: 22 Elwell Avenue Barwell Leicester

Proposal: Erection of 2 dwellings

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. This application seeks planning permission for 2 semi-dwellings adjacent to 22 Elwell Avenue, Barwell.

2.2. The proposed dwellings would have a 8.8 metre by 6.6 metre footprint. It would be 4.8 metres to the eaves and 7.8 metres to the ridge. The chimney would be sited in the centre of the dwellings to a height of 8.8 metres. There would be a canopy porch on the side elevation facing Bradgate Road.

2.3. Amended plans have been received throughout the course of the application relating to highways issues and proposed garden lengths.

3. Description of the site and surrounding area

3.1. The application site is situated on the corner of Elwell Avenue and Bradgate Road which is to the north of the settlement of Barwell. There is a uniform character within the area in terms of the style and design of dwellings. The levels within the site remain constant.

4. Relevant planning history

None relevant.

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2. No comments received.

6. Consultation

6.1. No objections received (some subject to conditions) from:

- Barwell Parish Council
- LCC Highways
- HBBC Pollution
- HBBC Drainage
- HBBC Waste

7. Policy

7.1. Earl Shilton and Barwell AAP (2014)

- No relevant policies

7.2. Core Strategy (2009)

- Policy 3: Development in Barwell

- Policy 19: Green space and Play Provision
- 7.3. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
- 7.5. Other relevant guidance
- Good Design Guide (2020)
 - National Design Guide (2019)
 - Leicestershire Highways Design Guide
- 8. Appraisal**
- 8.1. Key Issues
- Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Other matters
 - Obligations
 - Planning balance
- Assessment against strategic planning policies
- 8.2 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and Site Allocations and Development Management Policies DPD (2016).
- 8.3 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Barwell is identified as an urban area within Policy 3 of the Core Strategy. To support its role as an urban area the Core Strategy seeks to deliver a minimum of 45 dwellings within the settlement boundary. A mix of housing types and tenures as detailed in Policy 15 and Policy 16 as well as supporting development that meets Local Needs as set out in Policy 17 should be delivered.
- 8.4 On 25th March 2021, ONS published the latest median house price to median gross annual workplace based earnings ratios used in step 2 of the standard method for calculating local housing need as set out in paragraph 2a-004 of the PPG. The application of the new ratio means that the local housing need for Hinckley and Bosworth is now 450 dwellings per annum (rather than 452 dwellings per annum using the previous ratio). In addition to this in May 2021 the Sketchley Lane appeal

decision (APP/K2420/W/20/3260227) and Wykin Lane appeal decision (APP/K2420/W/20/3262295) both discounted some large sites included within the trajectory. Therefore, the Council can demonstrate a 4.44 year housing land supply.

- 8.5 In addition to the above, the housing policies are considered to be out-of-date and therefore paragraph 11(d) of the NPPF is triggered and permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is a material consideration to weigh in the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless considerations indicate otherwise. The tilted balance of Paragraph 11d) of the NPPF is engaged, irrespective of the housing land supply figure, which is a product of the age of the plan and the out-of-date evidence base it relies upon. The Core Strategy plans for a minimum requirement of 9,000 dwellings over a 20 year period between 2006-2026, this equates to 450 dwellings per annum. This figure was derived from the East Midlands Regional Plan and was considered the 'end point' for housing need requirements for that period. The Site Allocations and Development Management Policies DPD is also based upon these requirements in terms of the allocations it makes and the settlement boundaries it fixes. The Standard Methodology set by government currently identifies a requirement for Hinckley and Bosworth Borough Council of 450 dwellings per annum. Whilst the figure is the same as the Core Strategy requirement, it is the 'starting point' for the need; the 'end point' has not yet been assessed and the allocations to meet it / the new settlement boundaries will not be confirmed until the publication of the new Local Plan. The new Local Plan period will cover 2020-2039.
- 8.6 This is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.7 Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) sets out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise.
- 8.8 Given the location of the site within the settlement boundary of Barwell, a sustainable location, the proposal would be in accordance with adopted strategic planning policies and the principle of development is acceptable. This is subject to all other material considerations being satisfactorily addressed.
- Design and impact upon the character of the area
- 8.9 Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.10 The Good Design Guide (2020) outlines that built development on infill sites should be of similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development. It also states that applications should appreciate the context of the surrounding area and consider the integration of the development into the street scene.

- 8.11 The application site is located on the corner of Bradgate Road and Elwell Avenue. The site is currently associated with no. 22 Elwell Avenue and is planted up as an allotment. There is a uniform character within the area with dwellings mainly being two storey semi-detached dwellings of similar style and design. The proposed dwelling would not breach the building line within the street scene and would be set in approximately 5 metres from Bradgate Road and set back 5.7 metres from Elwell Avenue. The Good Design Guide states that attention to detail in the design of individual building components through to the collection of features within a streetscene is critical. It also states that development should be of a similar scale, mass and roof form to the wider context, allowing it to sit comfortably within the streetscene. The development would be of a similar design and scale to the dwellings within the vicinity. Interest has been added to the side elevation of plot 2 in the form of a porch due to the siting of the dwellings on a corner plot.
- 8.12 The hedgerow which currently fronts Bradgate Road will be retained and new hedge planting is proposed on the corner and partially along Elwell Avenue. Parking is proposed to the front of Plot 1 and the side of Plot 2 however this is common along Elwell Avenue and Bradgate Road. A similar development has been approved and built on the opposite corner. A landscaping condition would also be attached to the permission so that the development is satisfactory in terms of boundary treatments.
- 8.13 The proposed materials have not been submitted however these can be controlled by condition. Therefore, it is considered that the proposed development would complement the character of the area and the dwellings within the vicinity of the site and therefore would comply with Policy DM10 of the SADMP.
- Impact upon neighbouring residential amenity
- 8.14 Policy DM10 of the adopted SADMP requires that the amenities of the occupiers of proposed developments would not be adversely affected by activities within the vicinity of the site.
- 8.15 The application site is currently an allotment garden area adjacent to no.22. Originally it could have been no. 22's amenity space however it would not be classed currently as residential curtilage. The development of this land would leave approximately 30 square meters of amenity space for the existing dwelling. Approximately 45 square metres of amenity space would be provided for plot 1 and 35 square metres for plot 2. Plot 2 would also have amenity space to the front and side of the site. All of these amenity spaces are below the requirement within the Good Design Guide. All of the proposed gardens would meet the 7 m length requirement. In the surrounding area along Elwell Avenue there are gardens of similar size and scale to the proposed gardens. Therefore in this instance it is considered that the proposed garden sizes are acceptable.
- 8.16 Plot 2 would be 7 metres from no. 1 Bradgate Road. The rear windows would look directly onto the side elevation of no. 1. There is one window on the side elevation at first floor level which faces plot 2 however this is not a window to a habitable room. Therefore it is considered that the Plot 2 would not have an impact upon the neighbouring residential amenity of no.1. Plot 1 would again be 7 metres from no. 1 and would be sited to the rear of the dwelling. No. 1 has a garden length of approximately 30 metres. Plot 1 would have two windows at first floor level to the rear, one of which would be a bathroom and would therefore be obscurely glazed. Although the dwelling would be sited closer to the side elevation of no.1 than the requirements within the good design guide however in this instance due to the siting of the dwellings and the extensive garden length of no. 1 it is considered that separation distance between the dwellings would be acceptable.

- 8.17 The 45 degree angle (as set out within the Good Design Guide) from any window on no. 22 would not be compromised.
- 8.18 Overall, it is considered that the proposed dwellings would have no severe adverse impact upon the residential amenity of the occupiers of the neighbouring dwellings.
- Impact upon highway safety
- 8.19 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the adopted SADMP requires new development to provide an appropriate level of parking provision.
- 8.20 Paragraph 109 of the NPPF states that development should only be refused if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.21 The LHA has checked its Personal Injury Collision (PIC) database and there have been no recorded PICs in the vicinity of the proposed site accesses within the last five years. The LHA therefore believe the proposed development should not exacerbate the existing highway safety situation.
- 8.22 The Local Highway Authority (LHA) are satisfied the off street parking provision for Plot 1, plot 2 and the existing dwelling is in accordance paragraph 3.173 of the Leicestershire Highway Design Guide (LHDG). The Applicant has indicated there is a shortfall to the visibility splay in a south-eastern direction. Given that speeds are likely to be lower due to the nature of the road, and the prevalence of on street parking in the area, speeds are likely to be lower than stated. As such the LHA deem that a 2.4m by 33m visibility splay in a south-eastern direction is acceptable in this instance.
- 8.23 This complies with LCC Highways Design guidance. Overall there would not be a significant adverse impact upon highway safety.
- 8.24 Therefore the proposal would comply with policies DM17 and DM18 of the SADMP.
- Other matters
- 8.25 Policy DM7 of the adopted SADMP seeks to ensure that adverse impacts from pollution and/or flooding will be prevented. HBBC Pollution and HBBC Drainage raise no objections to the application. A note to applicant is provided by HBBC Drainage regarding the management of surface water and access drives. Therefore it is considered that the application complies with DM7.
- 8.26 The new dwellings would have an access off Elwell Avenue and Bradgate Road and it is considered that waste would be collected from the highway boundaries similar to the surrounding properties. HBBC Waste have no objection but it is not considered necessary to impose a condition in this instance.
- Obligations
- 8.27 Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.28 The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

- 8.29 The public amenity space within the accessibility standards to the application site is Willowtree Close Amenity Green Space (BRW40) which has quality scores of 64% in the Open Space and Recreation Study (2016). This is below the target quality score of 80%.
- 8.30 Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant.
- 8.31 However, in this case, the proposal is for only two additional dwellings which would not have any significant impact on existing play and open space facilities. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

Planning balance

- 8.32 The site is located within the settlement boundary of Barwell where new residential development is considered to be sustainable subject to all other material considerations. The proposed residential development would therefore comply with adopted strategic planning policy Policy 3 of the Core Strategy.
- 8.33 As referred to in paragraphs 8.4 and 8.5 the council is unable to demonstrate a five year housing land supply and its housing policies are out of date, therefore this application should be determined against paragraph 11(d) of the NPPF whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.34 The NPPF in paragraph 8 identifies three overarching and interdependent objectives to sustainable development – the economic, social and environmental objectives. In this case, the proposal would provide a small contribution to the social role through the provision of one additional dwelling and a small contribution to the economic role through the construction of the development and future ongoing occupation of the dwellings supporting local services.
- 8.35 At present the site forms an allotment area adjacent to no. 22 Elwell avenue. The siting, scale and design of the proposed dwelling is considered to compliment the character of the area and surrounding dwellings. It would also have no severe adverse impact upon the residential amenity of any neighbouring dwellings and would have no severe adverse impact upon highway safety. Therefore the proposal would comply with Policy DM1, DM3, DM7, DM10, DM17 and DM18 of the SADMP and Core Strategy Policies 3 and 19.
- 8.36 The application does not conflict with any of the policies set out within the Local Plan (2006-2026), and there are no significant or demonstrable adverse impacts that would outweigh the identified social and economic benefits and the presumption in favour of sustainable development. Therefore, no material considerations indicate that a decision should be made other than in accordance with the Development Plan.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The proposal is within the settlement boundary of Barwell. The siting, scale and design of the proposed dwelling is considered to compliment the character of the area and surrounding dwellings. It would also have no adverse impact upon the residential amenity of any neighbouring dwellings and would have no impact upon highway safety. Therefore the proposal would comply with Policy DM1, DM3, DM7 DM10, DM17 and DM18 of the SADMP (2016), Policies 3 and 19 of the Core Strategy (2009) and the Good Design Guide. Therefore this application is recommended for approval subject to the conditions below.

11. Recommendation

- 11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Proposed Floor Plans, Elevations & Site Plan Drg No: DB/BB/21/03/02 Rev: C

submitted to the Local Planning Authority on 3 June 2021.

- Site Location Plan

submitted to the Local Planning Authority on 16 March 2021.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, tree species and planting specification, for the site, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. . The hard landscaping scheme shall be carried out prior to the first occupation of the dwellings hereby approved. The soft landscaping scheme shall be carried out within the first planting season following the first occupation of the dwellings hereby approved . The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Notwithstanding the provisions of Schedule 2, Part 1 Classes A - E inclusive of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby permitted shall be carried out unless planning permission for such development has been granted by the local planning authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No part of the development hereby permitted shall be occupied until such time as the access arrangements, visibility splays and parking arrangements for plot 1, plot 2 and the existing dwelling as shown on Proposed Floor Plans, Elevations & Site Plan, drawing number DB/BB/21/03/02 Rev C have been implemented in full.

Reason: To ensure a safe and suitable form of access to the site, to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2019).

11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
4. Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).